

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Rule making related to restitution for pollution causing injury to wild animals

The Natural Resource Commission (Commission) hereby amends Chapter 113, “Restitution for Pollution Causing Injury to Wild Animals,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455A.5(6) and 481A.151.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455A.5(6) and 481A.151.

Purpose and Summary

Iowa Code section 481A.151 authorizes the Commission to adopt rules incorporating the methods and values published by the American Fisheries Society (AFS) for use by the Department of Natural Resources (Department) when conducting fish kill counts and assessing restitution for damages to the state’s natural resources and wildlife. The Commission has done so in Chapter 113. This amendment updates the definition of “AFS” in rule 571—113.2(481A) by changing “Special Publication 30” to “Special Publication 35.” Special Publication 35 is the most current version of the AFS publication regarding fish and freshwater mollusk counting methods and restitution valuation. The alternative of not adopting the newest version of the AFS publication would require the Department to use a document that is no longer considered the best available publication for these purposes.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 12, 2020, as **ARC 4921C**. Five public hearings were held across the state on March 5, 2020. Attendance at the public meetings was low, and most of the comments were received by email.

A news release was issued on February 12, 2020, soliciting public comment on the proposed rule making and inviting the public to participate in the five public hearings being held. This news release was sent to approximately 400 news outlets in Iowa, along with about 28,500 subscribers to *Iowa Outdoor News* and 105,800 subscribers to *Fishing News*. Of the 21 public comments received, 100 percent supported the rule making.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on May 14, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

This rule is subject to the waiver provisions of 571—Chapter 11. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on July 22, 2020.

The following rule-making action is adopted:

Amend rule **571—113.2(481A)**, definition of “AFS,” as follows:

“AFS” means the Special Publication ~~30~~ 35, “Investigation and Monetary Values of Fish and Freshwater ~~Mussel~~ Mollusk Kills,” published by the American Fisheries Society.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/17/20.